IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2839 OF 2006

Mukund Murlidhar Dhus. .. Petitioner.

vs.

Maharashtra State
Basketball Association. .. Respondent.

Mr. P.S. Dani i/by V.S. Kapse
for petitioner.
Mr. Niranjan Pandit i/by G.V. Aiman
for Respondent.

CORAM : A.P. DESHPANDE, J.

DATE : 21st November, 2006.

P.C.

. The present petitioner in the past had represented Maharashtra State Basketball Association as a honorary secretary. Record reveals that he did not hold the annual meetings over a span of more than seven years and did not have the accounts passed in the meeting. There appears to be two factions in the Association, one headed by the present petitioner, viz., erstwhile honorary secretary and the other by one Shanbhag who claims to be the President of the Maharashtra State

Basketball Association. The Basketball Federation of India to which the Maharashtra State Basketball Association is affiliated had recognised Mr. Shanbhag, the respondent / original plaintiff, as a person entitled in law to represent the respondent in the affairs of the Federation. When the Federation for the first time refused to recognise the present petitioner, the present petitioner filed a petition in the name of Maharashtra State Basketball Association being W.P. No. 66 of 2005 before the Division Bench of this Court. The grievance made by the petitioner in the said writ petition was to the effect that the Federation has taken a decision to recognise the respondent in this petition behind the back of the petitioner and the same was in breach of the principles of natural justice. As the respondents conceded to grant hearing to the rival faction and then take a fresh decision, the Division Bench directed the Federation to decide as to whom amongst the two, viz, the petitioner or Mr. Shanbhag is to represent the said Association. After hearing both the sides, the Federation took a decision to recognise Mr. Shanbhag viz., the respondent in this petition. After the decision was reached by the All India Federation of Basketball, yet another petition came to be filed by the present petitioner in the name of Maharashtra State Basketball Association bearing No. 1053 of 2005. While dealing with the said writ

petition, the Division Bench found that the Constitution of the Federal Body and to be precise Rule 40 requires that its members need to abide by the constitution, rules and the decision of the Federation. Having regard to the view of the Federation that it recognised the respondent herein (Mr. Shanbhag), the writ petition filed by the present petitioner was dismissed. The relevant prayers made by the petitioner in Writ Petition No. 1053 of 2005 are prayers (b), (c), and (d) and the same are reproduced hereinbelow :-

"(b) This Hon'ble Court be pleased to declare that the Maharashtra State Basketball Association represented by the Managing Committee unanimously elected under presidentship of Mr. S.S. Narayan at its Annual General Body Meeting held on 7th February, 2004 at Shirur Tajband, Ahemedput, District Latur in State of Maharashtra.

(c) This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction directing the BFI respondent No. 1 to forthwith recognise the Body under presidentship of Mr. S.S. Narayan representing MSBA, the

petitioner, as its members and to grant it all the powers, privileges, rights and benefits conferred on its other members, including the addressee of the necessary communication regarding holding the championships etc. and allowing them to field teams in the National or any other Championships conducted or recognized by BFI.

(d) This Hon'ble Court be pleased to restrain the alleged managing committee under presidentship of Mr. Ramesh Shanbhag (Respondent No. 6) from exercising any authority for and on behalf of The Maharashtra State Basketball Association, or issuing any statement for, on behalf of or in the name of Maharashtra State Basketball Association."

All the said prayers, it is needless to mention, were refused by the Court by dismissing the writ petition. As a necessary corollary of rejection of the said writ petition, the present petitioner should have stopped interference with the activities of the Maharashtra Basketball Association and handed over the records to the respondent whom the Federation of India recognises as representing the

Maharashtra State Basketball Association. Having not done so, the respondent was constrained to institute a suit for seeking a declaration so also mandatory injunction with a view to receive the records, pass books, cheque books, etc. With a view to receive these documents, temporary injunction application was also moved and the same has been granted by the trial Court. A Misc. Appeal preferred by the petitioner has been dismissed by the First Appellate Court concurring with the view taken by the trial Court and a direction has been issued to the petitioner to hand over all the records so that the respondent can properly administer the affairs of the Maharashtra State Basketball Association. It is this order passed by the First Appellate court, rejecting the miscellaneous application, which is challenged by filing the present writ petition.

2. A perusal of the record leaves no room of doubt that the petitioner has no right to interfere with the administration of the affairs of the Maharashtra State Basketball Association, as the All India Federation has recognised the respondent as a lawful person to represent the Maharashtra State Basketball Association and the said order passed by the Federation has been upheld by Division Bench of this Court by dismissing the writ petition No. 1053 of 2005 vide order dated 29.4.2005. I am also

informed that the said order passed by the Division Bench was challenged by filing a Special Leave Petition in the Supreme Court and the Apex Court has also dismissed the Special Leave Petition. The orders passed by the Courts below are rather in compliance of the order passed by the Division Bench in the writ petition and hence cannot be at all faulted. The petitioner is making all possible unsustainable attempts in his endeavour to hold on to the affairs of the Maharashtra State Basketball Association.

3. The learned counsel for the petitioner tried to contend that the suit as filed at Satara is not maintainable as the Court at Satara lacked territorial jurisdiction. The objection to territorial jurisdiction has to be raised at the first possible opportunity. No specific objection touching the territorial jurisdiction has been raised by the petitioner before the Courts below till date. Rather the petitioner has acquiesced in the jurisdiction of the Court at Satara. I do not find any merit in the said submission.

4. I have perused the orders passed by the Courts below. The same are perfectly legal and proper and does not call for any interference.

5. In the result, the writ petition is

dismissed. The petitioner to pay costs of Rs. 10,000/- to the respondent.

6. The learned counsel for the petitioner at this stage makes a prayer to continue the ad-interim order which is operating in the petition. For the reasons recorded in the order, the prayer cannot be granted and the same is rejected.

. C.C. expedited.

(A.P. Deshpande, J.)